

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

CRP.No. 885 of 2003()

AGAINST THE ORDER DATED 09/01/2003 IN IA 3209/02 IN
AS.247/2002 of DISTRICT COURT, THRISSUR
.....

REVN. PETITIONER: PETITIONER/PETITIONER

BALAKRISHNAN, S/O.VAIKKATTIL KUNJAMAN,
VARANDARAPPILLY VILLAGE, DESOM,
CHAVAKKAD TALUK.

BY ADV. SRI.RENJITH THAMPAN
SMT.P.A.ANITHA

RESPONDENTS: RESPONDENT

1. STATE OF KERALA, REP. BY DISTRICT
COLLECTOR, THRISSUR - 3.
2. SUPERINTENDENT OF POLICE, THRISSUR,
THRISSUR - 3.
3. P.B.UNNIKRISHNAN, P.C.2873,
S/O.BALAKRISHNAN, VAIKKPATT VEEDU,
MANNUMKADU P.O., ENGINEERING COLLEGE,
THRISSUR - 7.

R3 BY ADV. SRI.T.G.RAJENDRAN
R1 & 2 BY GOVERNMENT PLEADER SMT. R. BINDU

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

M.N.KRISHNAN, J.

C.R.P.No. 885 OF 2003

Dated this the 25th July, 2007.

O R D E R

This revision petition is preferred against the order of the District Judge, Thrissur in I.A. 3209/02 in A.S.247/02. It was an application filed to condone the delay in filing the appeal. It is averred that by mistake the appeal was preferred before the High Court and it was returned by the High Court and thereafter it was filed in the proper court. But still there was a delay from May to October and it was on account of the ailment of the petitioner. The learned District Judge was not prepared to accept the contentions raised and therefore dismissed the delay condonation application as well as the appeal. I am informed that the suit is one for damages. It is true that there are laches on the part of the revision petitioner. At the same time, one cannot hold that he is guilty of grave misconduct or gross negligence. Broad principles of natural justice demand that an opportunity should be given to the party to contest the case on merits and especially being an appeal it need not be shut out unless there is such grave misconduct on the part of the revision petitioner. He has really filed an appeal before the High Court of Kerala and actually the delay is in filing it

before the proper court. Therefore, I am inclined to grant an opportunity to the revision petitioner to put forth his case on merits. Therefore, the order under challenge is set aside and the delay is condoned and the learned District Judge is directed to restore A.S.247/02 to file and dispose of the same in accordance with law, with notice to all parties. C.R.P is disposed of accordingly.

M.N.KRISHNAN
Judge

jj